

1 [Submitting Counsel on Signature Page]

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8 IN THE UNITED STATES DISTRICT COURT
 9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

10
 11 IN RE: SOCIAL MEDIA ADOLESCENT
 ADDICTION/PERSONAL INJURY
 PRODUCTS LIABILITY LITIGATION

12
 13 THIS DOCUMENT RELATES TO:

14 4:23-cv-05448

15 MDL No. 3047

16 Case No. 4:22-md-03047-YGR

17
 18 STATE ATTORNEYS GENERAL'S
 AFFIRMATIVE LETTER BRIEF
 EXPLAINING GROUNDS FOR
 ANTICIPATED MOTIONS FOR
 SUMMARY JUDGMENT AND *DAUBERT*
 MOTIONS

19 Judge: Hon. Yvonne Gonzalez Rogers

20 Magistrate Judge: Hon. Peter H. Kang

21 Pursuant to CMO 27 (ECF 2274) and the pre-filing schedules approved in CMO 27 (ECF
 2271), the State Attorneys General Plaintiffs ("State AGs") file this letter brief setting forth the
 bases of their anticipated motions for partial summary judgment and *Dabuert*.

22 I. Motions For Partial Summary Judgment

23 The State AGs propose filing two motions for partial summary judgment regarding Meta's
 noncompliance with various requirements of the Children's Online Privacy Protection Act
 ("COPPA").

- 24 1. **Anticipated Motion #1: Meta has violated COPPA by continuing to use the**
"personal information" of children to train its machine learning and generative
AI models even after Meta checkpointed and "disabled" their accounts because
they belong to children under 13.

1 COPPA aims to “safeguard the confidentiality, security, and integrity of ... children's
 2 personal online information” by requiring “companies that operate websites and online services
 3 marketed toward children ... [to] provide certain disclosures about their data collection activities.”
Jones v. Google LLC, 73 F.4th 636, 641 (9th Cir. 2023). Under COPPA it is unlawful for a website
 4 or online service that is “directed to children” or has “actual knowledge” of child users (those under
 5 the age of 13) to collect, use, or disclose personal information from those children unless the
 6 platform complies with relevant FTC regulations. 15 U.S.C. § 6502(a)(1); 16 C.F.R. § 312.3. ECF
 7 1214 at p. 16.

8 The State AGs anticipate filing a motion for partial summary judgment establishing that
 9 Meta violated COPPA by using children's personal information to train its machine learning and
 10 generative AI models without providing COPPA's required protections. Discovery has shown that
 11 Meta checkpoints (i.e., suspends) the accounts of users it determines are likely children (such as
 after a user changes their birthdate to be under 13, or Meta's human reviewers review a reported
 account and determine the owner is likely a child), and disables those accounts after 30 days if the
 user does not successfully appeal by presenting an ID demonstrating they are 13 or older. Meta
 therefore has “actual knowledge” for COPPA purposes that the users that Meta has checkpointed
 and disabled are children.

12 Despite “actual knowledge” that these users are children, Meta has admitted in Rule
 13 30(b)(6) testimony that it continues to use the personal information of such users to train its machine
 14 learning and generative AI models, violating COPPA's requirements.

15 2. **Anticipated Motion #2: Meta fails to provide COPPA's required protections**
to any child users of Facebook and Instagram.

16 The State AGs anticipate filing a second motion for partial summary judgment to establish
 17 the following elements of COPPA, all of which supported by Meta's responses to Requests for
 18 Admission or otherwise essentially uncontested. Courts routinely grant this type of partial summary
 19 judgment on elements or parts of a claim, even short of establishing liability. *See, e.g., State Farm*
Fire & Cas. Co. v. Geary, 699 F. Supp. 756, 759 (N.D. Cal. 1987); *Freeman v. Ethicon, Inc.*, 619
 20 F. Supp. 3d 998, 1008 (C.D. Cal. 2022); *Fed. Trade Comm'n v. Surescripts, LLC*, 665 F. Supp. 3d
 21 14, 37–38 (D.D.C. 2023). Granting summary judgment as to these elements will narrow the issues,
 22 streamlining the trial and focusing the jury's attention with respect to Meta's COPPA liability on
 the two elements that are actually in dispute: whether Facebook or Instagram (or portions thereof)
 are “directed to children,” and whether Meta had actual knowledge that its users were children
 under age 13, separate and apart from those users discussed above with respect to Anticipated
 Motion #1.

23 a. ***Meta is an “operator” of Instagram and Facebook, which are both***
websites or “online services.”

24 COPPA requires an operator of a website or online service to obtain parental consent before
 25 it collects or uses the personal information of a child who is under 13. *See* 15 U.S.C. §§ 6501(1),
 26 6502(a), 6502(b)(1)(A)(ii); 16 C.F.R. § 312.5(a)(1).

27 Meta's discovery responses establish that it is an “operator” of Instagram and Facebook for
 28 COPPA purposes. Both platforms are indisputably websites or online services.

1
 2 ***b. Meta collects “personal information” from users of Facebook and***
 3 ***Instagram, including those who visit Facebook and Instagram without***
 4 ***logging into an account.***

5 “Personal information” is defined by statute and regulation to mean “individually
 6 identifiable information about an individual collected online,” including the child’s name, address,
 7 email address, personal identifiers, geolocation information, and photographs or videos of the child,
 8 among other categories of information. 15 U.S.C. § 6501(8); 16 C.F.R. § 312.2.

9 Discovery responses, including citation to Meta’s privacy policy, establish Meta collects
 10 personal information as defined by COPPA from users of Facebook and Instagram, including those
 11 who visit without logging into an account.

12
 13 ***c. Meta has not provided COPPA’s protections for any children on***
 14 ***Facebook or Instagram.***

15 COPPA requires operators of websites or online services directed to children or those who
 16 have actual knowledge they are collecting or maintaining personal information from children to
 17 provide various protections with respect to children’s personal information.

18 Meta has admitted in responses to Requests for Admission that it does not provide the
 19 following four protections:

- 20 i. Meta has not sought or obtained “**verifiable parental consent**”
 21 before any collection, use, or disclosure of personal information
 22 from children on Facebook or Instagram, 16 C.F.R. § 312.5(a)(1).
 23 See Responses to Requests for Admissions 6 and 19.
- 24 ii. Meta has not provided parents with “**direct notice of [its] practices**
 25 with regard to the collection, use, or disclosure of personal
 26 information from children,” 16 C.F.R. § 312.4(b), nor has Meta
 27 **posted a notice of its practices** with respect to children’s personal
 28 information, 16 C.F.R. § 312.4(d). See Response to Requests for
 29 Admission 18.
- 30 iii. Meta has not provided parents with “**a means of reviewing** any
 31 personal information collected from the[ir] child” on Facebook or
 32 Instagram. 16 C.F.R. § 312.6(a)(3). See Responses to Requests for
 33 Admissions 7 and 20.
- 34 iv. Meta has not provided parents with “[t]he opportunity at any time
 35 to **refuse to permit [Meta’s] further use** or future online
 36 collection of personal information from that child, and to direct
 37 [Meta] to **delete** the child’s personal information.” 16 C.F.R. §
 38 312.6(a)(2). See Response to Requests for Admission 21.

39 While Meta presumably disputes that it was required to provide COPPA’s protections to

1 children on Facebook and Instagram, there is no dispute as to the material fact that Meta provided
2 none of the four protections above to any children or their parents. Summary judgment should be
3 granted to establish these elements of the State AGs' COPPA claim.

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5 **II. *Daubert Motion***

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7 The State AGs do not anticipate filing Daubert motions related to Meta's responsive experts
8 Emilio Ferrera, Jeremy Birnholtz, Sriraman Venkataraman, Kevin Keller, and Bruce Isaacson to
9 MDL State AGs experts Ravi Iyer and Adam Alter. However, the State AG's reserve all rights to
10 seek to exclude opinions from these experts through Motions before trial. As flagged in a prior
11 letter brief identifying potential motions this Court may see from the State AGs (ECF 2172), the
12 State AGs anticipate filing Motions to exclude expert opinions that provide opinions on topics not
13 at issue or no longer at issue in this case, such as opinions that primarily relate to content moderation
14 or opinions responding to issues that have not been raised within the MDL State AG case.

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1 **Dated: November 19, 2025**

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1 I, Verna Pradaxay, hereby attest, pursuant to N.D. Cal. Civil L.R. 5-1, that the
2 concurrence to the filing of this document has been obtained from each signatory hereto.

3 DATED: November 19, 2025

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